



## JUDICIAL ADVISORY BOARD MINUTES

February 3, 2010

The Judicial Advisory Board of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on February 3, 2010 at 7:52 a.m.

### COMMITTEE PRESENT

Scott Rhodes, Chairman  
Kate Ali'varius  
Daniel A. Barker  
Stella Hunsaker  
David M. Talamante

### COMMITTEE ABSENT

Michael B. Cowan

### STAFF PRESENT

Kathleen Broman  
Michael Claspell  
Matt Tafoya

### 1. Announcement of Board Vacancy.

Chairman Rhodes announced that Boardmember Garrett Smith, who attended his first meeting last October, has tendered his resignation from the Board. He explained that Boardmember Smith regularly practices law at the Mesa Municipal Court and determined that such activity would create a conflict of interest and preclude him from serving on the Board.

Chairman Rhodes advised that Boardmember Smith was the designee of the Maricopa County Bar Association. He said that the selection process consists of the Bar Association recommending an individual to the Mayor and City Council, who make the ultimate appointment to the Board. Chairman Rhodes added that until such time, the Board would continue to function with one fewer member.

### 2. Approve minutes from the October 7, 2009 Board meeting.

It was moved by Boardmember Barker, seconded by Boardmember Talamante, that the minutes of the October 7, 2009 Judicial Advisory Board meeting be approved.

Chairman Rhodes declared the motion carried unanimously by those present.

### 3. Items from citizens present.

There were no items from citizens present.

4. Conflict of Interest Issue.

Chairman Rhodes advised that at the October 7, 2009 Board meeting, Boardmember Barker questioned whether he had a potential conflict of interest regarding the reappointment of Magistrate Elizabeth Arriola. He said that Boardmember Barker disclosed that during his tenure as Presiding Superior Court Judge at the Southeast Judicial facility, he had certain interactions with Magistrate Arriola when she worked as a Maricopa County Court Commissioner at the same location. Chairman Rhodes added that Boardmember Talamante, who also served as a Superior Court Judge at the Southeast Judicial facility during the same period of time, expressed similar concerns. He added that the Board directed staff to inform Magistrate Arriola of the situation and also to confer with City Attorney Debbie Spinner in this regard.

Chairman Rhodes further remarked that it was his understanding that there were no objections to Boardmembers Barker and Talamante continuing their service on the Board. He commented that he did not believe they had a conflict of interest, but said that if there was one, it was waived by all parties and approved by Ms. Spinner.

5. Review, discuss and take action on items related to the reappointment of Magistrate Michelle Lue Sang and Magistrate Elizabeth Arriola, whose terms expire June 30, 2010:

- a. Review Applications for Reappointment and assign reference checks
- b. Response from the Commission on Judicial Conduct
- c. Survey results
- d. Court data

Chairman Rhodes reported that Magistrate Michelle Lue Sang, who was first appointed in 1998, is eligible for reappointment to a four-year term and Magistrate Elizabeth Arriola, who was first appointed in 2006, is eligible for reappointment for her first four-year term.

Chairman Rhodes briefly reviewed the above-listed materials distributed to the Board with regard to Magistrates Lue Sang and Arriola.

6. Convene an Executive Session.

- a. Discussion or consideration of employment, assignment, appointment, promotion or resignation of a public officer, appointee or employee of the City. (A.R.S. §38-431.03A(1))
  1. Reappointment of Magistrates – Interview questions

It was moved by Boardmember Talamante, seconded by Boardmember Hunsaker, that an Executive Session be convened at 7:58 a.m.

Chairman Rhodes declared the motion carried unanimously by those present.

(At 9:01 a.m., the Executive Session adjourned and the Board reconvened their regular meeting.)

7. Assign Boardmembers to conduct due diligence on each candidate for reappointment.

Chairman Rhodes commented that any Boardmember may conduct due diligence on the candidates for reappointment if he or she feels it is appropriate. He stated that the usual process is for a Boardmember to volunteer to conduct due diligence on a candidate.

Boardmember Ali'varius volunteered to conduct due diligence on Magistrate Arriola.

Boardmember Hunsaker volunteered to conduct due diligence on Magistrate Lue Sang.

Chairman Rhodes referred to a January 14, 2010 memo titled "Mesa Municipal Court Statistics," which was prepared by Administrative Support Assistant III Susan Bozile, and included in the materials distributed to the Board. **(See Attachment 1)** He stated that under Item A, the Board is seeking clarification from Ms. Bozile as to whether the number of cases concluded by Magistrate Arriola is included in the average for the Court. Chairman Rhodes noted that if that were the case, the Board requests that Ms. Bozile: 1.) Recalculate the average number of cases for the Court and exclude the number of cases concluded by Magistrate Arriola; and 2.) Compile a listing of every City magistrate and the number of cases concluded by each individual. He further requested that Ms. Bozile e-mail her analysis to Deputy City Clerk Michael Claspell or Senior Human Resources Analyst Kathleen Broman.

Magistrate Tafoya assured the Boardmembers that Ms. Bozile would respond to their requests in a timely manner.

8. Scheduling of meetings and general information.

Chairman Rhodes advised that the next meeting of the Judicial Advisory Board would be held on March 3, 2010. He stated that the Public Hearing/Interview of Magistrate Michelle Lue Sang is scheduled to begin at 5:45 p.m., followed by the Public Hearing/Interview of Magistrate Elizabeth Arriola at 6:15 p.m.

Chairman Rhodes further noted that Magistrate Arriola is currently on medical leave and would not be available in the courtroom for the Board to observe her during the due diligence period. He said that it was his understanding she would be in attendance at the March 3<sup>rd</sup> Public Hearing and Interview.

9. Adjournment.

It was moved by Boardmember Barker, seconded by Boardmember Ali'varius, that the meeting of the Judicial Advisory Board be adjourned at 9:06 a.m.

Chairman Rhodes declared the motion carried unanimously by those present.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Judicial Advisory Board meeting of the City of Mesa, Arizona, held on the 3<sup>rd</sup> day of February 2010. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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